Land Owned With Someone Other Than a Spouse

Taxes on land owned jointly are allocated to each owner. If co-owners divide each item of revenue and expenses and choose to allocate the property taxes the same way, they may do so only if they include a copy of a signed statement by each owner. The statement must show each owner's share of the revenues and expenses. This requirement can be met by completing Part 2 of the MI-1040CR-5. If a signed distribution statement is not included, the taxes must be allocated equally among the owners, with two exceptions:

- A husband and wife are considered one owner.
- An owner eligible to be claimed as a dependent by another owner cannot receive a share of the taxes and cannot claim a credit for that farmland.

Land Owned by a Limited Liability Company

Property taxes on land owned by a limited liability company are allocated to each member in a percentage equal to the member's share of ownership or distributive share of ordinary income as reported by the limited liability company to the Internal Revenue Service (IRS).

Land Owned by an S Corporation or Trust

Taxes on land owned by an S corporation are allocated to each shareholder based on the shareholder's share of the corporation's stock. This percentage is on U.S. Form *1120S, Schedule K-1*. **Exception:** If the S corporation had an FDRA before 1989, and in 1991 elected to file under the SBT Act on C-8022, the S corporation must continue to file under the Michigan Business Tax (MBT). If the FDRA was not in the S corporation's name before January 1, 1989, the taxes on land covered by this agreement must be claimed on the shareholders' Michigan income tax using an MI-1040CR-5. These taxes must be claimed by the shareholders even if the S corporation elected to file C-8022 for other agreements that the S corporation entered into before January 1, 1989.

For farmland owned by a grantor trust, if you are treated as the owner of that trust under IRC sections 671 through 679, you must include a copy of that portion of the trust agreement that shows you are the owner of a grantor trust holding title to the farmland.

If the trust was created by the death of a spouse and requires 100 percent of the income to be distributed to the surviving spouse, you must include a copy of U.S. Form *1041* and *Schedule K-1*, if required.

Claiming a Credit on a Farm Purchased in 2018 That Was Already Enrolled in the Farmland Program

Your farmland preservation tax credit will be processed only if there is a farmland agreement on file with the MDARD **in the same name as your deed.** You are not eligible to claim a farmland preservation tax credit until the transfer of ownership of the FDRA is completed. The FDRA is not final until MDARD receives a copy that has been recorded at the Register of Deeds. If MDARD has not received a copy by April 15, 2019, file your return without claiming credit for that agreement. Once MDARD has received a copy, file an MI-1040CR-5 with a new MI-1040. Check the Amended Return box at the top of page 1 of the MI-1040 form, and file the Schedule AMD and supporting documentation. You must prorate the 2018 taxes for the period you owned the land and claim your credit based only on those taxes.

Filed for Bankruptcy

If you are enrolled in the Farmland and Open Space Preservation Act program and have petitioned for bankruptcy (under U.S. Bankruptcy Code, chapters 7, 11, 12, or 13), claim your credit on MI-1040CR-5 and include it with your Michigan income tax return.

You must prorate your credit for the part of the year ending when the petition in bankruptcy was filed. The trustee in bankruptcy or the landowner as Debtor in Possession may file a claim for the portion of the year following the date of petition. Bankruptcy estates are also required to file a *Fiduciary Income Tax Return* (MI-1041).

Transferring an Agreement

To transfer an agreement, you must show that all of the land described under the agreement has been conveyed. The MDARD will need a copy of the legal document (e.g., deed, land contract) used for conveyance and the new owner's name and address.

For more information on the Farmland Development Rights Agreement contact:

Farmland and Open Space Preservation Unit
Environmental Stewardship Division
Michigan Department of Agriculture and Rural Development
P.O. Box 30449
Lansing, Michigan 48909

Line-by-Line Instructions for Schedule CR-5 and MI-1040CR-5

Lines not listed are explained on the forms.

Schedule CR-5

Column A: The agreement or contract number is located at the top and lower left corner of each agreement. The first two numbers represent the county where the property is located. The middle set of numbers is the actual contract number. The last six numbers are the date of expiration, (i.e., 123118 is December 31, 2018). The contract number retains its original series throughout the term of the agreement. However, a letter may be added to indicate the agreement was split into multiple agreements. The final six numbers change when the agreement is reduced or extended. Always use the contract number on your most recently recorded agreement and include a copy of each 2018 tax statement that corresponds to the agreement number listed. The expiring year must be entered as a four-digit number. The expiring year for a PDR should be entered as 9999.

Column B: List the 2018 taxable value for each agreement you owned in 2018. The taxable value is found on your property tax statement(s) for each parcel. The total taxable value for each agreement must be listed; do not list each individual parcel.

Note: If the property tax statement includes taxable value for land not covered by an FDRA or PDR, the taxable value reported in column B must be adjusted accordingly. The taxable value that cannot be claimed must be determined by the local assessor's office and submitted on official letterhead.

If the property tax statement includes taxable value for land on more than one agreement, the taxable value reported in column B must be separated according to the land in each agreement. The local assessor will be able to determine what the breakdown is based on the legal descriptions of the land enrolled under each agreement.

The entire taxable value for the agreement must be entered in column B even if you are eligible to claim only a portion of the property taxes because of joint ownership(s), partnership(s), or multiple shareholders.

Column C: For each agreement, check the box if the property taxes are paid for 2017 or 2018. If the property taxes are not paid, do not check the box. Your farmland preservation tax credit will be issued jointly to you and the treasurer for the county where the property is located if you do not indicate the property taxes are paid. **Note: Copies of your 2018 property tax statements must be included regardless of whether the box is checked in column C. E-filers are not required to send property tax statements unless requested to do so by Treasury at a later date. Some e-file software products may allow you to include copies of your property tax statements, which may reduce the need for further correspondence with Treasury and avoid processing delays.**

Column D: Enter "I" if you are the individual owner or co-own the land with your spouse, "J" if you are a joint owner with someone other than your spouse, "P" if the land is owned by a partnership, or "S" if the land is owned by an S corporation.

Column E: If the land is owned by you and someone other than your spouse, enter your percent of income from the signed statement or your percent of ownership. If the land is owned by a partnership, enter your percent of income or ownership. All partners must use the same basis for filing. If the land is owned by an S corporation, enter your percent of stock ownership.

Note for E-filers: The "Farmland *Schedule K-1* Worksheet" allows claimants to identify the percentages they are allowed to claim for a farmland preservation tax credit. This worksheet is available on Treasury's Web site. Although this worksheet is not required, submitting the worksheet could reduce the need for further correspondence with Treasury and avoid processing delays.

Column F: Individuals enter the taxes from each tax statement for the portion of land enrolled under an agreement. **Joint owners, partners, and shareholders** enter only their allocated share of taxes from each tax statement for the portion of land enrolled under an agreement.

Note: If the property tax statement includes taxes for land not covered by an FDRA or PDR, the taxes reported in column F must be reduced accordingly. The amount of taxes that cannot be claimed must be determined by the local assessor's office and submitted on official letterhead. The 1 percent collection fee may be included. Do not include penalties, interest, or special assessments.

If the property tax statement includes taxes for land on more than one agreement, the taxes reported in column F must be separated according to land in each agreement. The local assessor will be able to determine what the breakdown is based on the legal descriptions of the land enrolled under each agreement.

Column H: Multiply line 15 or 20 from the MI-1040CR-5, whichever applies, by the percentage computed in column G for each agreement and enter in column H.

MI-1040CR-5

Line 5: Check the box if all of the taxes that qualify for a Homestead Property Tax Credit are included in the total on line 4.

Before completing line 8, read "Computing the Homestead Property Tax Credit" on page 4.

Line 8: Enter your total household resources from your MI-1040CR, MI-1040CR-2, or MI-1040CR-7. If you are a part-year or nonresident, include **your entire** 2018 total household resources, regardless of source.

Line 13: Enter amount of property tax from line 4. This line **must be completed.**

Line 17: If line 17 is less than line 7, carry amount from line 15 to Form MI-1040, line 26. If line 17 is greater than line 7, complete lines 18 through 20.

PART 2: If you own farmland jointly with someone other than your spouse, complete Part 2. For each agreement, enter the information for each owner.

Partners may use Part 2 to show percentage of income or ownership if no U.S. Form *1065* was required. All partners must sign. The percentage of income or ownership being claimed for credit must be carried to column E of the Schedule CR-5.

PART 3: If you had net losses from business (including farm) after netting all business income and loss, net rental or royalty losses, or net operating loss deductions, complete Part 3.

Line 21: Enter amounts to the extent included in AGI from:

- U.S. *Schedule C* (Profit or Loss from Business).
- Part II (Ordinary Gains and Losses) of the U.S. Form *4797*.
- Part II (Income or Loss from Partnership and S Corporations) and Part III (Income or Loss from Estates and Trusts) of the U.S. *Schedule E*.
- Include income items reported as a distributive share.

Line 22: Enter income or loss from U.S. Schedule F to the extent included in AGI (Profit or Loss from Farming).

Line 23: Total must be less than zero. If the total is positive enter "0."

Line 24: Enter amounts to the extent included in AGI from:

- Part I (Income or Loss from Rental Real Estate and Royalties) of the U.S. *Schedule E*.
- Part IV (Income or Loss from Real Estate Mortgage Investment Conduits (REMIC)) of the U.S. *Schedule E* (rents, royalties).
- Part V (Net farm rental income or (loss) from Form 4835) of the U.S. *Schedule E*.

Total must be less than zero. If the total is positive enter "0."

Line 25: Enter the lesser of your federal net operating loss deduction (NOL) or federal modified taxable income (FMTI). Compute your FMTI using page 3 of Form MI-1045.